

AMENDED IN ASSEMBLY MAY 2, 2006

AMENDED IN ASSEMBLY APRIL 17, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 2746**

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**Introduced by Assembly Member Blakeslee**  
***(Coauthors: Assembly Members Laird and Villines)***

February 24, 2006

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An act to add Chapter 4.6 (commencing with Section 65965) to Division 1 of Title 7 of the Government Code, relating to natural resources.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2746, as amended, Blakeslee. Natural resources: mitigation for adverse impacts.

Existing law authorizes, under various provisions of law, certain state agencies or entities to acquire fee title in land or conservation or open-space easements from property owners to mitigate any adverse impact resulting from the development of a project or facility.

This bill would, notwithstanding any other provision of law, allow a state or local public agency to authorize a nonprofit organization to hold title to and manage an interest in real property that the state or local public agency requires a property owner to deed to the agency to mitigate any adverse impact upon natural resources caused by permitting the development of a project or facility, provided the nonprofit organization meets certain requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Numerous state and local laws regulate agricultural lands, wildlife habitat, wetlands, forests, cultural and historic resources, and other natural resources.

(b) A state or local public agency has the authority to review a proposal for the development of a project or facility and to issue a permit authorizing the project or facility to be developed.

(c) A state or local public agency has the authority to impose conditions upon the issuance of a permit to mitigate any adverse impact caused by a permitted activity on lands and resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, and cultural or historic resources.

(d) The conditions may include the conveyance of an interest in real property, including, but not limited to, fee title in land, or a conservation or open-space easement, to mitigate any adverse impact of the permitted activity.

(e) It is the intent of the Legislature in enacting this act to clarify existing law that a state or local public agency may authorize a nonprofit organization to hold an interest in real property that a property owner is required to deed to the agency to mitigate any adverse impact upon natural resources resulting from the development of a project or facility.

SEC. 2. Chapter 4.6 (commencing with Section 65965) is added to Division 1 of Title 7 of the Government Code, to read:

#### CHAPTER 4.6. MITIGATION

65965. (a) For purposes of this section, the following definitions apply:

(1) "Direct protection" means the protection and preservation of natural lands or resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, or outdoor recreational areas.

(2) "Stewardship" encompasses the range of activities involved in controlling and managing for conservation purposes

1 a property, or a conservation or open-space easement, as defined  
2 by the terms of the easement, and its attendant resources.

3 (b) Notwithstanding any other provision of law, if a state or  
4 local public agency requires a property owner to deed to the  
5 agency an interest in real property to mitigate any adverse impact  
6 upon natural resources caused by permitting the development of  
7 a project or facility, the state or local public agency may  
8 authorize a nonprofit organization to hold title to and manage  
9 that interest in real property, provided that the nonprofit  
10 organization is all of the following:

11 (1) Exempt from taxation as an organization described in  
12 Section 501(c)(3) of the Internal Revenue Code.

13 (2) A “qualified organization” as defined in Section 170(h)(3)  
14 of the Internal Revenue Code.

15 (3) An organization that has as its principal purpose and  
16 activity the direct protection or stewardship of natural land or  
17 resources, or cultural or historic resources, including, but not  
18 limited to, agricultural lands, wildlife habitat, wetlands,  
19 endangered species habitat, open-space areas, and outdoor  
20 recreational areas.

21 (c) The recorded instrument that places title with a nonprofit  
22 organization pursuant to subdivision (b) shall include a provision,  
23 that if the state or local public agency that authorized the  
24 nonprofit organization to hold the title, or its successor agency,  
25 determines that the interest in real property that is held by the  
26 nonprofit organization is not being held or managed for  
27 conservation purposes in the manner specified in that instrument  
28 *or in the mitigation agreement between the state or local public*  
29 *agency and the nonprofit organization*, the interest in real  
30 property shall revert to the state or that local public agency.

31 (d) *A state or local public agency shall exercise due diligence*  
32 *in reviewing the qualifications of a nonprofit organization to*  
33 *effectively manage and steward natural land or resources. The*  
34 *state or local public agency may adopt guidelines to assist the*  
35 *agency in that review process.*